

Springfield March 24th 1836

173

E. B. Blackwelder Plaintiff
vs. A. M. Leaton Defendant
On Demurrer to the first plea of the
Defendant

This day came the parties by their attorneys and
the court being sufficiently advised is of the opinion that the
demurrer to the first plea of the defendant be sustained
And thereupon the defendant obtained leave to amend his plea.

It is ordered by the Court that it be certified that Abraham
Lincoln is a person of good moral character.

FACSIMILE OF A CERTIFICATE OF CHARACTER FOR LINCOLN (SEE BELOW)

LINCOLN AS A LAWYER

WITH AN ACCOUNT OF HIS FIRST CASE

BY JESSE W. WEIK

Joint Author with W. H. Herndon of Herndon and Weik's "Life of Lincoln"

LINCOLN'S early opportunities were so deplorably meager, and he was so effectually debarred from the requisite preliminary training for a professional career, that no one of his friends and neighbors in the now extinct village of New Salem, Illinois, where he was living when he attained his majority, ever dreamed he had any ambition above lounging about the post-office or making himself useful to old Mrs. Alley, who kept the village tavern. We can, therefore, appreciate the surprise of good old Squire Godby, who one morning saw him sitting barefoot "astride Jake Bates's woodpile," deeply absorbed in an open law-book spread across his knees. But the awkward youth did not care how ridiculous he seemed to others. Apparently he had a distinct purpose in view; he had mapped out his course and was pursuing it with a determination and earnestness akin to desperation. With borrowed books—to obtain some of which he had walked to the county-seat, twenty miles away—he clung to his purpose by day and night. It

was a long struggle, but gradually the skies cleared, and in due time, when he had exhausted Blackstone, Greenleaf, and Chitty, we find him in Springfield, ready to undergo the required examination for admittance to the bar.

The first step in Lincoln's legal career is thus set forth in an entry found in the records of the circuit court of Sangamon County, Illinois, dated March 24, 1836: "It is ordered by the Court that it be certified that Abraham Lincoln is a person of good moral character." After this necessary preliminary, as appears from the records of the clerk of the supreme court, he was on September 9 duly licensed to practise in all the courts of the State. In compliance with the law, he must first have been formally examined as to his qualifications by two justices of the supreme court. According to Mr. Herndon, that examination was neither formidable nor exacting. "Mr. Lincoln," he relates, "usually had several amusing variations in his descriptions of the ordeal; but he invariably left the impression that the manifest purpose was to develop the applicant's

general qualifications rather than make an exact test of his legal acquirements"; all of which cannot fail to remind one of his indorsement, while President, of the application of one Jacob Freese, whom he desired the Secretary of War to appoint colonel of a colored regiment, "regardless of whether he can tell the exact shade of Julius Cæsar's hair."

As illustrative of the character and scope of the examination, which was in strict keeping with the rough-and-ready tendency of the times, the following extract from Linder's "Early Bench and Bar of Illinois" may not be without interest. The author says:

I desired to have Colonel Bodkin of Alton admitted to the bar. Knowing his qualifications were very slim, I hinted as much to Browne, one of the supreme judges, and asked him to go to my room to examine him. Bodkin had been a butcher. He had twinkling gray eyes and a nose like Bardolph's. I said to Browne: "Judge, let me introduce Colonel Bodkin, who desires to be admitted to the bar; will you please examine him touching his qualifications?" Turning to Bodkin, he inquired: "Colonel, are you a judge of good brandy?" Bodkin took the hint in a moment, rang the bell, and a servant making his appearance, he directed him to bring up a bottle of the best cognac and some loaf-sugar, which were quickly forthcoming. Judge Browne, having partaken thereof with the rest of us, turned to the colonel and said:

"Colonel, have you read Blackstone and Chitty?"

"Yes, sir," answered the colonel.

"What do you think of them as authors?"

"I think very highly of them," said Bodkin.

"Have you read Shakspeare?" continued the judge.

"Yes, sir."

"Do you admire him, colonel?"

"I do, indeed; beyond all the power of language to express."

"Are you aware there was no such person as Shakspeare?" queried the judge.

"Indeed, I am not."

"It is true," interrupted the judge; "and you do not know then, colonel, who wrote the plays of Shakspeare?"

"If Shakspeare himself did not write them, then, indeed, I do not know."

"Would you like to know?" insisted the judge.

"I certainly should," answered Bodkin.

"Then," said the judge, with great solemnity, "as you have shown in this examination the highest qualities for admission to the bar,

I will say to you in the strictest confidence, what I have never said to any one else before, that I am the author of those plays! Colonel Bodkin, write out your license, and I will sign it."

This Judge Thomas C. Browne was one of the judges of the supreme court of Illinois at the time Lincoln applied for a license, and doubtless was one of his examiners. He was a rough character of the type then prevalent, somewhat humorous, very corpulent, and known as the Falstaff of the bench. He was present at the marriage of Lincoln and Mary Todd, and when the former recited, after Dr. Dresser, the Episcopal rector, the language of the ritual in which the groom, placing the ring on the bride's finger, endows her with all his lands and worldly possessions, he blurted out, in a voice loud enough to be heard over the room, "Lord A'mighty, Lincoln, the law fixes that." Four years after Lincoln's admission to the bar, examinations in private were abolished and a rule was enacted requiring all future applicants for examination to present themselves in open court.

After persistent research in various localities where they had lain overlooked and unpublished, I have come into possession of data which enable me to present an authentic account of the first suit or court proceeding in which Mr. Lincoln figured or with which he seems in any way to have been connected. This case, memorable only because of Mr. Lincoln's connection therewith, was an action, or, more strictly speaking, three actions growing out of one episode or transaction, brought by James P. Hawthorne, through his attorneys, Walker & Hewett, against David Wooldridge, in the circuit court of Sangamon County, Illinois. Of the three cases, one was what is known among lawyers as an action on assumpsit, another for trespass vi et armis, and the third in replevin. With the exception of the replevin suit, which was not brought till the fall, the declarations or complaints were filed July 1, 1836. This was before Lincoln received his license to practise. John T. Stuart, who was then absorbed in a vigorous and aggressive campaign for Congress and who was soon to invite Lincoln into partnership with him, had been retained by the defense; but although the pleadings in one or two instances bear Stuart's signa-

David Wooldrige } And the said David Wooldrige, by
 at } John T. Stuart his attorney, comes and
 James P. Hawthorn } defends the force and injury when &c.
 and says he is not guilty of the supposed trespasses above
 laid to his charge, or any or either of them, in manner and
 form as the said plaintiff hath above complained against
 him. And of this he puts himself upon the country, &c.

Stuart

James P. Hawthorn to David Wooldrige Dr
 To Boarding from the first day of April until
 the first of November 1835. at \$1.50 cents per week.
 being 30 weeks & 4 days \$ 45.75
 To use of wagon & team from first of Apr
 1836 till first of November 1836 \$ 90.00
 1834 To 11 bushels of wheat @ 75. 8.25
 1836. Jan 7. 8 Cash Rent 100.00
 May & June Breaking 10 acres of Prairie 20.00
 To Money lent to enter land, afterwards
 intended in the name of your
 brother 50.00

James P. Hawthorn
 vs
 David Wooldrige

The defendant, David Wooldrige, being
 sworn says that he verily believes that the said
 plaintiff is unable to pay the costs of this suit, and
 that the officers of this court will be in danger of
 of losing their costs in said suit unless the said
 plaintiff be ruled to give security therefor. He states
 that said plaintiff is a young man and without family,
 and that he has not, to the said defendant's knowledge,
 any real, or personal property out of which the costs
 could be raised.

David Wooldrige

ture, they are, almost without exception, in Lincoln's legible handwriting. Later, the latter blossoms out full-fledged in the active rôle of counsel for defense. The presiding judge was Stephen T. Logan, one of the great lawyers of Illinois, destined, also, several years later, to become Lincoln's partner and to remain with him until both should become aspirants for Congress at the same time, when, in the language of Lincoln to Herndon, the one law-office

That he struck, beat, bruised and knocked him down; plucked, pulled and tore out large quantities of hair from his head; that with a stick and his fists he struck plaintiff a great many violent blows and strokes on and about his face, head, breast, back, shoulders, hips, legs and divers other parts of his body; that he struck, shook, pulled, pushed and knocked plaintiff to the ground; violently hit, kicked, struck and beat him a great many other blows and strokes; and also, then and there, with great violence forced, pushed, thrust and

but the balance—

As to the real estate, we can not attend to it as agents, & we therefore recommend that you give the charge of it, to Mr. Isaac S. Britton, a trust-worthy man, & one whom the Lord made an umpire for such business. Yours to Logan & Lincoln

FACSIMILE OF THE CONCLUSION OF A LETTER IN LINCOLN'S HANDWRITING
DATED SPRINGFIELD, APRIL 24, 1844

became too small for two such ambitious men. The clerk was William Butler, one of the early and substantial citizens of Springfield, at whose house Lincoln was invited to live until his legal practice had passed the experimental stage and he could "stand on his feet," and with whom he continued to live till his marriage to Mary Todd in the summer of 1842.

Returning to the lawsuit: the assumpsit case is based on Wooldridge's failure to furnish plaintiff two yoke of oxen to break up twenty acres of "prairie sod-ground"; also on his refusal to allow Hawthorne access to a tract of ground on which the latter had contracted with him to raise a crop of "corn or wheat at the option of the plaintiff," for all of which he demands one hundred dollars. The trespass case evidently was one of much more gravity and importance. The declaration, in the minute and formal phraseology of the law, narrates that part of the transaction leading up to the matter in controversy, and especially sets out in full detail what happened when Hawthorne, despite the threats and commands of Wooldridge, undertook to reach the disputed corn-field. Naturally there was a scene, with some features more or less dramatic. It is charged, among other things, that Wooldridge assaulted the defendant Hawthorne with force and arms, to wit:

gouged his fingers into plaintiff's eyes; by means of which assault and consequent illness, injuries, loss of time and expense for medical attention said plaintiff demands damages in the sum of five hundred dollars and other proper relief.

The replevin suit demanded the return of "one black-and-white spotted yoke of steers, one black cow and calf, and one prairie plow," together with twenty dollars' damages for the unlawful detention of the same. The exceedingly modest demand for money reparation in all these cases would seem to indicate that the modern damage suit, which has gradually attained such profitable proportions, had not yet come into vogue.

With three suits against his clients, we may well imagine that the young barrister was a busy man. The record shows, as his first step, a plea, filed October 5, containing the customary denial of the alleged trespasses or any of them, in support of which he "puts himself upon the country." On the same day, with a view either to gain time or, in some way, embarrass the plaintiff, or both, he files the affidavit of his client reciting the fact that, as the plaintiff is a young man without family or property and the court officers are in danger of losing their fees, he should be required to furnish bond for costs. On the following day, much to the surprise of

Mather, Saml Hco
 1837. April - To Stuart & Lincoln Dr.
 To attendance at trial of right of
 J. F. Davis' property before Moffat \$ 5.00

William Hernon
 1837. Oct To Stuart & Lincoln Dr.
 To Attachment case against Smith \$ 5.00

Wiley & Wood
 1837-8 To Stuart & Lincoln Dr.
 To defence of Chancery case of Ely \$ 50.00
 Credit by coat to Stuart - 15.00
 \$ 35.00

Peyton L. Harrison
 1838 March - To Stuart & Lincoln Dr.
 To case with Dickinson - \$ 10.00

Allen & Stone
 1838 Oct To Stuart & Lincoln Dr.
 To case with Curtis \$ 2.50

FACSIMILE OF ENTRIES BY LINCOLN IN THE FEE-BOOK OF STUART & LINCOLN

the defendant and his counsel, the required bond for costs was executed and filed. The skirmishing for vantage-ground was growing somewhat animated. The next move on Lincoln's part was to draw up and file an account which he undertakes to "exhibit and prove as an offset" to the demand on assumpsit, containing sundry items more or less typical of the crude and primitive society of that early day, and so illustrative of commercial values then current on the frontier that it cannot well be omitted. With the exception of one item entered by Stuart, it is all in Lincoln's hand:

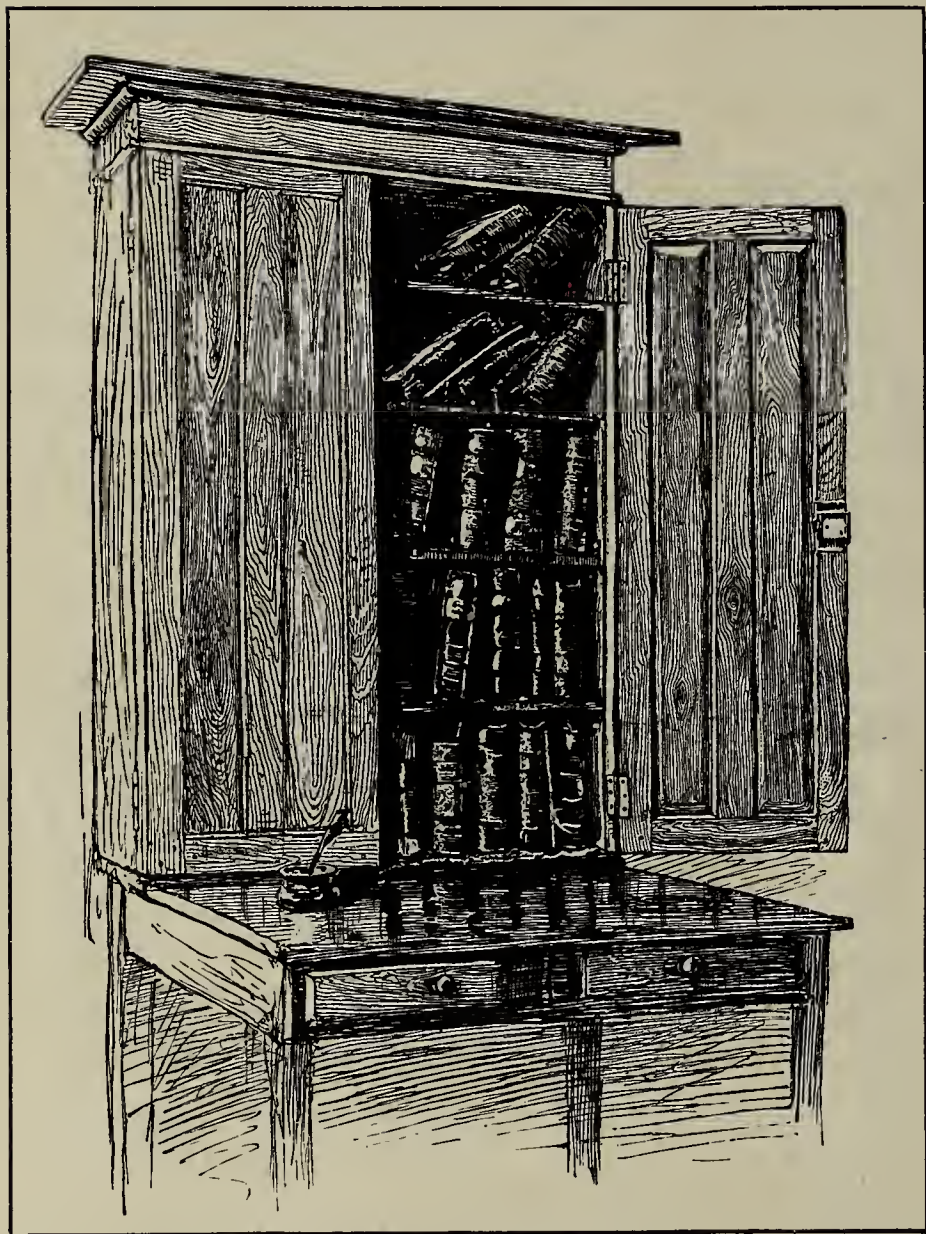
	To Boarding from the first day of April until the first of November 1835 @ \$1.50 per week being 30 weeks & 4 days	\$45.75
	To use of waggon & team first of April till first of November 1836	\$90.00
1834	To 11 bushels of wheat @ 75	8.25
1836	Jan 8 Cash lent	100.00
"	May & June Breaking 10 acres of Prairy	20.00
		\$264.00
	To money lent to enter land afterwards entered in the name of your brother	50.00

What next followed before the final encounter we do not know, for the record is silent. The cases were now at issue, but, for some reason, the term of court was suffered to adjourn without conclusive action. The next term found the combatants still apart and seemingly reluctant to measure arms. Meanwhile the peacemaker had been at work, for on the morning of March 17, 1837, the parties, by their attorneys, came into court with a report of the settlement of all pending litigation, and asked that the

from March, 1849, when, believing himself politically dead, he returned to the law and began the struggle in dead earnest. His business was largely confined to the circuit, a mode of practice quite unknown to the modern generation of lawyers. The now historic Eighth Circuit, over which he began his travels, contained fourteen counties. When the courts opened in Christian, Menard, or Logan, counties which adjoined his own, Sangamon, Herndon, his partner, frequently accompanied him; but to points beyond he usually drove alone or in company with the judge. He was the one lawyer who managed to reach the court in every county in the circuit. While Herndon remained in Springfield, in charge of the local office and to keep track of matters in the supreme court, "Lincoln was out on the circuit beating the bushes for more business."

Following the court about on the circuit was, no doubt, the joy of Lincoln's life. He was so fond of it that he declined a flattering offer to enter a lucrative law-partnership in Chicago, because, as he contended, it would necessitate more or less confinement in the office and therefore keep him off the circuit. Seated in a one-horse buggy, behind a sorry-looking animal, he would set out from Springfield to be gone for weeks at a stretch. The lawyers, as he drove into each successive place, eagerly anticipating a new stock of stories, gave him a cordial welcome, and the landlords hailed his coming with delight, for he was one of the most patient and uncomplaining of guests. "If every

other fellow," relates one of his colleagues, "grumbled at the indifferent accommodations and scant fare which greeted us at many of the dingy taverns we struck, Lincoln said nothing." His forbearance in this regard well warrants the observation he is said on one occasion to have made, that he never so completely felt his "own unworthiness as when he stood face to face with a real, live hotel clerk." How he appeared on the circuit may be gleaned from this sketch of him drawn by Henry C. Whitney, one of his colleagues in central



LINCOLN'S BOOKCASE

The bookcase is preserved in the Keyes Lincoln Memorial Collection, Chicago

cases be dismissed. The record shows that this was promptly done. In the *assumpsit* case judgment by agreement was entered against the plaintiff for costs; in the *replevin* case, against the defendant; and in the *trespass* case that item was equally divided between the two. The judge signed the record, and this was the end of Abraham Lincoln's first lawsuit.

Mr. Lincoln always divided his life as a lawyer into two epochs, one preceding and the other following his single term in Congress. His real legal career dates

We agree and award that Webster be allowed
a credit of four dollars on account of the Peach
Liquor mentioned above —

James H. Harris
A. Lincoln

FACSIMILE OF A DECISION AS TO THE OWNERSHIP OF A QUANTITY OF "PEACH LIQUOR,"
IN LINCOLN'S HANDWRITING

Illinois, who is yet living: "His hat was brown, faded, and the nap usually worn or rubbed off. He wore a short cloak and sometimes a shawl. His coat and vest hung loosely on his giant frame. His trousers were invariably too short. In one hand he carried a faded green umbrella with A. LINCOLN in large white cotton or muslin letters sewed on the inside; the knob was gone from the handle, and a piece of cord was usually tied round the middle of the umbrella to keep it from flying open. In the other hand he carried a carpet bag in which were stored the few papers to be used in court and underclothing enough to last till his return to Springfield."

When the court moved from one county to another there was great bustle and activity at each successive place. Men came together to meet the celebrities at the bar, to negotiate loans, purchase family supplies, buy and sell live stock, to hear the lawyers "plead," and so forth. The best room at the hotel was reserved for the judge and such choice spirits among the lawyers as he might select. The other lawyers slept two in a bed, and three or four beds were located in one room. At meals the judge, lawyers, suitors, witnesses, court officers, and prisoners out on bail ate together at a long dining-table. "I well recollect," testifies one of Lincoln's companions, "a term of court at Urbana where a prisoner, who was on trial for perjury, used to spend the evenings with us in the

judge's room; and another at Danville where the prisoner, on trial for larceny, not only spent his evenings in our room, but took walks with us and ate in our immediate company." Mingling in this crude society, and leading the roving, unsettled life which thus fell to his lot, Lincoln spent almost half of each year. That it tempered and schooled his soul for the great trials of the future must ultimately be the verdict of history.

It was while out on the circuit that he was seen for the first time by a young man who afterward became one of the prominent lawyers of central Illinois. The latter, with a letter of introduction from a friend, found him one evening at the tavern in the town of Danville. "I was told," he relates, "that I would find Mr. Lincoln in Judge Davis's room. I climbed the unbanistered stairway, and after my timid knock two voices responded almost simultaneously, 'Come in.' Imagine my surprise, when the door opened, to find two men undressed, or rather dressed for bed, engaged in a lively battle with pillows, flinging them at each other's heads: one a low, heavy-set man, who leaned against the bed and puffed like a lizard, answered to the description of Judge Davis; the other a man of tremendous stature, looking as if he were at least seven feet tall, was incased in a long garment, yellow as saffron, which reached to his heels, and from beneath which protruded two of the largest feet that, up to that time, it had ever been my

When you can't find it anywhere
look into this

FACSIMILE OF A MEMORANDUM IN LINCOLN'S HANDWRITING

privilege to see. This immense shirt—for such it must have been—looked as if it had literally been chopped out of the original bolt of flannel from which it had been made and the pieces joined together in the dark and without reference to fit or measurement. The only thing that kept it from slipping off the gaunt, attenuated frame it so completely enveloped was the single button at the throat. I cannot fully describe my sensations as this apparition, with the modest announcement, ‘My name is Lincoln, sir,’ strode across the room and grasped my hand. I will not say he reminded me of Satan, but he was certainly the ungodliest figure I ever saw.”

Many of the stories told of Lincoln at the bar are ridiculously absurd, and represent him in anything but a dignified light; but, as in some cases they reveal more distinctly than anything else the peculiar characteristics of the man, they are entitled to preservation whenever there is sufficient reason to believe that they are genuine. If, by shrewd management or fervid eloquence, he felt his adversary gaining favor in the minds of the jury, no one knew better than he how, by some skilfully planned stratagem or clever retort, to break the spell and thus relieve the situation of its apparent gravity. Some of these diversions, though not unprofessional, were yet so adroit and bizarre that lawyers of this day would scarcely dare imitate him. To the methods of the opposing counsel in court one day he entered a vigorous protest, claiming that the testimony was irrelevant. “Why cannot counsel for plaintiff,” he appealed to the court, “confine themselves to the issues in this case? If I send a man to buy a horse for me, I expect him to tell me what his points are, not how many hairs there may be in his tail.”

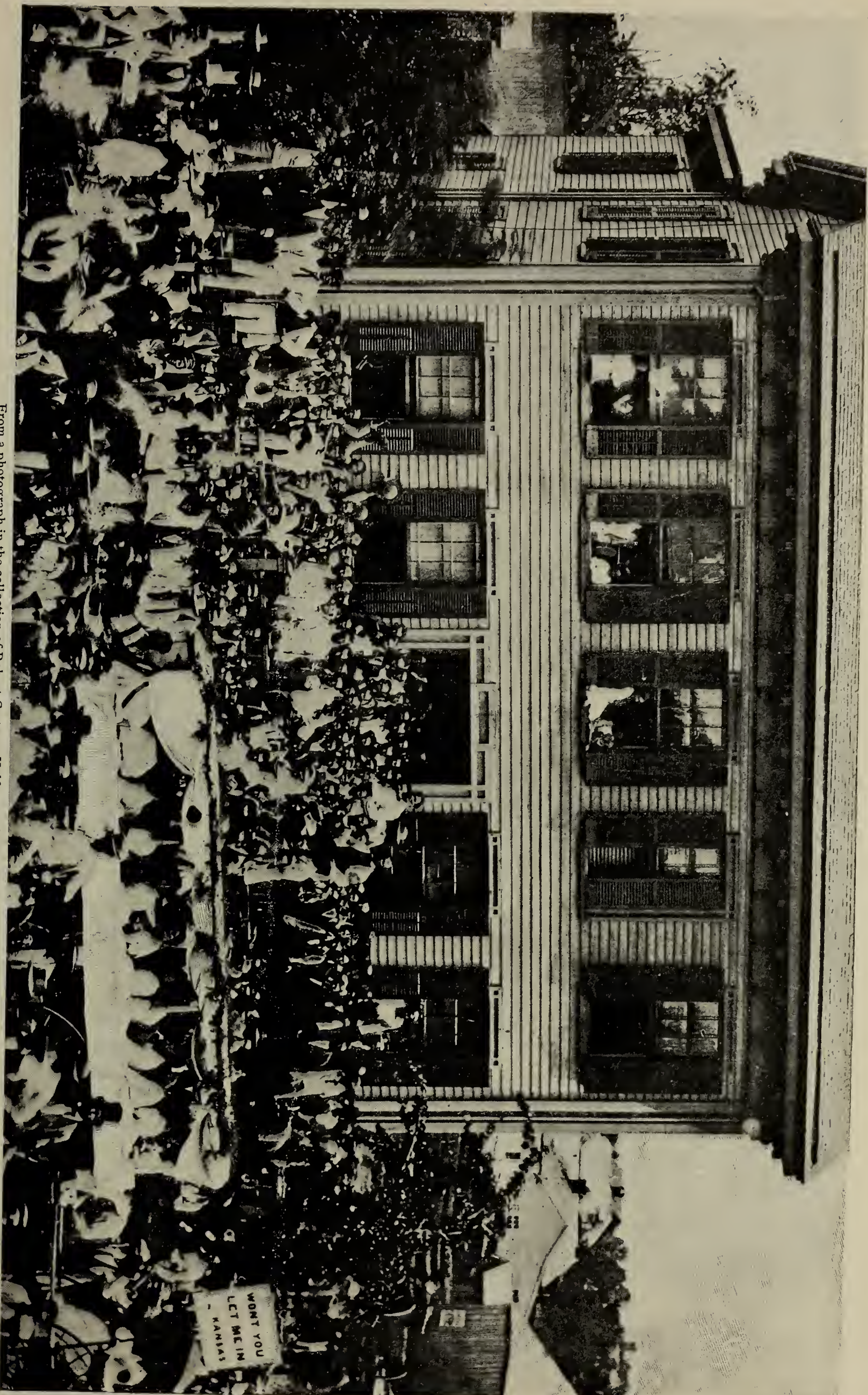
Of a certain technical judge who was famed for his close construction of the law he said that he would hang a man for blowing his nose in the street, but that he would quash the indictment if it failed to state which hand he blew it with. One of the justices of the Supreme Court of the United States he characterized as a “granny,” claiming that his mental vigor and perception had left him; that if you pointed your finger and a darning-needle toward him at the same time, he could never determine which was the sharper.

To a client in Kentucky who had asked

him and Judge Logan, when they were in partnership, to care for and collect the rents accruing from a house and lot in Springfield, he wrote in the name of the firm, declining, but blandly added: “We recommend that you give the charge of it to Mr. Isaac S. Britton, a trustworthy man and one whom the Lord made on purpose for such business.” He and Hern-don spent an entire day trying a suit in behalf of an old woman who had been fleeced by another attorney under the guise of a fee, recovered all the damages asked for, refused to charge for their services, and even paid the old woman’s hotel bill while attending court.

Late in the fifties Mr. Lincoln was a member of the committee appointed by the supreme court to examine applicants for the bar. While out on the circuit he was one day approached by a young man who had been studying law in the office of an attorney with an established practice and who desired to be examined. Mr. Lincoln directed him to report to his room in the evening after court had adjourned for the day. “Promptly at the appointed hour,” related the young man afterward, “I knocked at the door of his room, and was admitted; but I was hardly prepared for the rather unusual sight that met my gaze. Instead of finding my examiner in the midst of books and papers, as I had anticipated, he was partly undressed, and, so far as the meager accommodations of the room permitted, leisurely taking a bath! I shall never forget the queer feeling that came over me as his lank, half-nude figure moved to and fro between me and the window on the opposite side of the room. Motioning me to be seated, he began his interrogatories at once, without looking at me a second time to be sure of the identity of his caller. ‘How long have you been studying?’ he asked. ‘Almost two years,’ was my response. ‘By this time, it seems to me,’ he said laughingly, ‘you ought to be able to determine whether you have in you the kind of stuff out of which a good lawyer can be made.’ Then he asked me in a desultory way the definition of a contract, and two or three other fundamental questions, all of which I answered readily and, as I thought, correctly.

“As he continued his toilet, he entertained me with recollections—many of them characteristically vivid and racy—of



From a photograph in the collection of Robert Coster. Half-tone plate engraved by S. Davis

A PROCESSION, PROBABLY IN THE 1858 CAMPAIGN, HALTED IN FRONT OF LINCOLN'S SPRINGFIELD HOME

Abraham Lincoln is the tall figure in white at the right of the doorway



From a Brady photograph. Half-tone plate engraved by H. Davidson

ABRAHAM LINCOLN WHEN PRESIDENT

his early practice and the various incidents and adventures that attended his start in the profession. The whole proceeding was so unusual and queer, if not grotesque, that I was at a loss to determine whether

next day I went to Springfield, where I delivered the letter as directed. On reading it, Judge Logan smiled, and, much to my surprise, gave me the required certificate without asking a question beyond my



From a photograph in the collection of Robert Coster. Half-tone plate engraved by H. Davidson

MRS. ABRAHAM LINCOLN WHEN MISTRESS OF THE WHITE HOUSE

I was really being examined at all or not. After he had dressed we went down-stairs and over to the clerk's office in the courthouse, where he wrote a few lines on a sheet of paper, and, inclosing it in an envelop, directed me to report with it to Judge Logan, another member of the examining committee, at Springfield. The

GREENCASTLE, INDIANA.

age and residence, and the correct way of spelling my name. The note from Lincoln read:

"MY DEAR JUDGE: The bearer of this is a young man who thinks he can be a lawyer. Examine him, if you want to. I have done so, and am satisfied. He 's a good deal smarter than he looks to be.

Yours,
Lincoln."

